

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

JOSEPH SOTO

PLAINTIFF,

v.

CASE No. 04-70966

NORMAN MINETA, Secretary, Department of  
Transportation,

HONORABLE ARTHUR J. TARNOW  
UNITED STATES DISTRICT JUDGE

DEFENDANT.

MAGISTRATE DONALD A. SCHEER

**ORDER ADOPTING MAGISTRATE'S REPORT AND RECOMMENDATION [D/E 29],  
GRANTING DEFENDANT'S MOTION FOR A PARTIAL DISMISSAL OR, IN THE  
ALTERNATIVE, MOTION FOR PARTIAL SUMMARY JUDGMENT [D/E 23]**

Before the Court is the Magistrate Judge's Report and Recommendation, filed September 26, 2005. The Magistrate Judge recommends that this Court grant "Defendant's Motion For A Partial Dismissal Or, In The Alternative, Motion For Partial Summary Judgment." Granting this motion would cause Counts 7, 13 and so much of Count 6 as is based upon paragraphs 149 through 154, inclusive, of the Complaint to be dismissed for lack of jurisdiction. It would further cause Count 14 of the First Amended Complaint to be dismissed for failure to exhaust administrative remedies.

Having reviewed the file, the motions, the Magistrate's Report and Recommendation, and Plaintiff's objections, the Court **ADOPTS** the Magistrate's Report as its findings and conclusions. Accordingly, "Defendant's Motion For A Partial Dismissal Or, In The Alternative, Motion For Partial Summary Judgment" is **GRANTED**.

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**IT IS SO ORDERED.**

s/Arthur J. Tarnow  
Arthur J. Tarnow  
United States District Judge

Dated: January 19, 2006

I hereby certify that a copy of the foregoing document was served upon counsel of record on January 19, 2006, by electronic and/or ordinary mail.

s/Theresa E. Taylor  
Case Manager